IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

Crl.Rev.Pet.No. 563 of 1997-D

CRA.174/1990 of I ADDL. SESSIONS COURT, PALAKKAD
CC.71/1989 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM

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REVN. PETITIONER:

VELAYUDHAN, S/O. CHAMY, MARILAPPADI HOUSE, KOONATHARA.

BY ADV. SRI.T.P.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENTS:

STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTORMR HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR MR. AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 15/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 2231 OF 1997 IN CRL.R.P.NO. 563 OF 1997

DISMISSED.

15-2-2007 **SD/-K.R.UDAYABHANU, JUDGE**

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.563 of 1997

DATED THIS THE 15TH DAY OF FEBRUARY 2007

ORDER

The revision petitioner is the accused who stands convicted and sentenced to undergo rigorous imprisonment for two months for the offence under Section 447 I.PC. and rigorous imprisonment for three months for the offence under Section 324 I.P.C. The contention of the revision petitioner is that the courts below have not considered the evidence in the proper perspective and the same was resulted in gross miscarriage of justice and that he is liable to be acquitted in view of the absence of any independent evidence in the matter.

2. I find that the prosecution version is that on 2-2-1989 at about 9 p.m. the accused trespassed in the court yard of the residential house of the de facto complainant and hit her sister on the face with a granite stone. In support of the prosecution version PWs.1 to 9 were examined. PW4 came to the spot immediately after the incident and all of them took PW2 to the hospital in the same night. She has sustained a lacerated wound on the cheek. Pws.1 to 3, the occurrence witnesses including the injured has testified in support

of the prosecution version. The only contradiction brought out is with the statement of PW2 in the court that she was hit by the accused with MO.1 stone. In the alleged cause recorded in the wound certificate it is stated that she sustained injuries due to the throwing of a stone. The injury is a lacerated wound 1 x 1/2cm of the left side of the cheek. MO.2 blood stained towel was recovered from the place of the incident. On the next day itself, the F.I.R. was lodged. The doctor who treated PW2 and the investigating officers were examined.

3. On a consideration of the evidence adduced in the matter, I find that no serious discrepancies could be brought out in the evidence adduced. In the circumstances and in the light of the evidence adduced in the matter, I find that the findings of the courts below that the offence alleged stands established beyond reasonable doubt is not liable to be interfered

4. So far as the sentence is concerned, counsel for the revision petitioner has pleaded for leniency pointing out that about 17 years have elapsed since the date of occurrence. In the circumstances, I find that the sentence is liable to be modified . Hence the sentence is altered to pay a fine of Rs.500/- for the offence under Section 447 IPC and in default to undergo simple imprisonment for two months. With respect to the offence under Section 324 IPC, the sentence is

modified to imprisonment till the rising of the court and to pay a compensation of Rs.5,000/- to PW2 and in default he shall undergo simple imprisonment for six months vide Section 357(3)Cr.P.C. The revision petitioner shall appear before the Judicial First Class Magistrate Court, Ottappalam on 14-3-2007 to receive the sentence. The Crl.R.P.is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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